

Appl. No. 10/624,016
Atty. Docket No. AA536XC&
Amdt. dated 7 September 2006
Reply to Office Action of 9 June 2006
Customer No. 27752

REMARKS

Claim Status

Claims 1-10 are pending in the present application. No additional claims fee is believed to be due.

Claim 1 has been amended to show that the secondary absorbent member is joined to the primary absorbent member. Support for this amendment is on Page 8, Line 14 to Line 23 in the Specification.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 U.S.C. §102(b) Over U.S. 3,101,714 (Penksa)

Claims 1, 2, 4, 5, 7, 8 and 10 are rejected under 35 U.S.C. §102(b) as being anticipated by Penksa.

With respect to the novelty of claims 1, 2, 4, 5, 7, 8 and 10: Applicants respectfully traverse the Examiner's rejection as Penksa fails to disclose or teach a catamenial tampon which comprises a withdrawal cord including a composite yarn which includes a continuous string, and a secondary absorbent member joined to a part of the continuous string and the primary absorbent member, wherein the continuous string and secondary absorbent member are a single piece of composite yarn.

Penksa teaches a device consisting of an elongated cylindrical body of absorbent material with an absorbent withdrawal cord upon which a plug or pad of absorbent material is slidably mounted. (Col 1, Lines 42-49) The cord has the appearance of smoking pipe cleaners, with an axial core of strands. As the plug or pad slides on the cord the bristles provide a frictional engagement with the plug or pad to a relatively high degree so that the body, after being slid to a given position on the cord tends to remain there. (Col 1, Lines 51-62) During normal flow times, the plug member may be removed from the cord. In times of heavier flow, the plug or pad may be slid upward on the cord, after insertion, to be held in place by the sphincter muscles of the vagina. (Col 1, Line 71

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to Col 2, Line 8) Therefore, Penksa does not teach a secondary absorbent member joined to the primary absorbent member, but rather two distinct components.

Accordingly, the Applicants respectfully submit that claim 1 and its dependent claims 2, 4, 5, 7, 8 and 10 are novel over Penksa and the rejection should be withdrawn.

Rejection Under 35 U.S.C. §102(e) Over U.S. 6,258,075 (Taylor et al)

Claims 1 and 3 are rejected under 35 U.S.C. §102(e) as being anticipated by Taylor et al.

With respect to the novelty of claims 1 and 3: Applicants respectfully traverse the Examiner's rejection as, "A claim is only anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987). It has not been identified where in Taylor et al is found the teaching, "a catamenial tampon which comprises a withdrawal cord including a composite yarn which includes a continuous string, and a secondary absorbent member joined to a part of the continuous string, wherein the continuous string and secondary absorbent member are a single piece of composite yarn". Rather Taylor et al. discloses that the secondary absorbent member is a distinct and separate component from the withdrawal string, "The mass of secondary absorbent material 60 may be joined to the withdrawal cord 48 or the withdrawal end 34 of the primary absorbent member 21, or both, by any variety of means. (Col. 10, Lines 47-65)

Accordingly, the Applicants respectfully submit that claim 1 and its dependent claim 3 are novel over Taylor et al.

Rejection Under 35 U.S.C. §102(a) Over WO 00/61052 A1 (Taylor et al)

Claims 1 and 3 are rejected under 35 U.S.C. §102(a) as being anticipated by WO 00/61052 A1.

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With respect to the novelty of claims 1 and 3: Applicants respectfully traverse the Examiner's rejection. WO 00/61052 claims priority from 09/287,994 now US 6,206,867 and 09/309,467 now US 6,258,075 which is a continuation in part of application 09/287,994 now US 6,206,867. Therefore the novelty argument made in response to the rejection based on US 6,258,075 to Taylor et al as described previously is incorporated here, in its entirety, namely Taylor et al does not teach or suggest a catamenial tampon which comprises a withdrawal cord including a composite yarn which includes a continuous string, and a secondary absorbent member joined to a part of the continuous string, wherein the continuous string and secondary absorbent member are a single piece of composite yarn. Rather Taylor et al. discloses that the secondary absorbent member is a distinct and separate component from the withdrawal string, "The mass of secondary absorbent material 60 may be joined to the withdrawal cord 48 or the withdrawal end 34 of the primary absorbent member 21, or both, by any variety of means. (Page 14, Lines 22-34)

Accordingly, the Applicants respectfully submit that claim 1 and its dependent claim 3 are novel over WO 00/61052.

Rejection Under 35 U.S.C. §102(f) Over WO 00/61052 A1 (Taylor et al)

Claims 1 and 3 are rejected under 35 U.S.C. §102(f) as it has been alleged that the Applicants did not invent the claimed subject matter.

With respect to the inventiveness of claims 1 and 3: Applicants respectfully traverse the Examiner's rejection. It is further respectfully submitted that WO 00/61052 Taylor et al does not teach or disclose a catamenial tampon which comprises a withdrawal cord including a composite yarn which includes a continuous string, and a secondary absorbent member joined to a part of the continuous string, wherein the continuous string and secondary absorbent member are a single piece of composite yarn. Rather Taylor et al. discloses that the secondary absorbent member is a distinct and separate component from the withdrawal string, "The mass of secondary absorbent material 60 may be joined to the withdrawal cord 48 or the withdrawal end 34 of the primary absorbent member 21,

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or both, by any variety of means. (Page 14, Lines 22-34) If WO 00/61052 does not teach or disclose all the elements of claims 1 and 3 of the present invention, then it could not have an earlier date of invention.

Accordingly, the Applicants respectfully submit that claim 1 and its dependent claim 3 are inventive over WO 00/61052.

Rejection Under 35 U.S.C. §103(a) Over U.S. 3,101,714 (Penksa) in view of U.S. 4,237,804 (Hirayama)

Claim 6 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Penksa as applied to claims 1, 2, 4, 5, 7, 8 and 10, in view of Hirayama.

With respect to claim 6 and obviousness: As mentioned above Penksa fails to disclose, teach or suggest a catamenial tampon which comprises a withdrawal cord including a composite yarn which includes a continuous string, and a secondary absorbent member joined to a part of the continuous string and the primary absorbent member, wherein the continuous string and secondary absorbent member are a single piece of composite yarn. Penksa teaches a cylindrical absorbent body with a withdrawal cord upon which a plug or pad of absorbent material is slidably mounted. During normal flow times, the plug member may be removed from the cord. In times of heavier flow, the plug or pad may be slid upward on the cord, after insertion, to be held in place by the sphincter muscles of the vagina. (Col 1, Line 71 to Col 2, Line 8) There is no motivation or suggestion provided in Penksa that would motivate one of ordinary skill in the art to modify attachment of a plug member and a cord so that they are a single piece of composite yarn wherein the secondary absorbent member is attached to the primary absorbent member, when its disclosed inventive tampon device uses an adjustable slidable plug or pad that is separate from the cord and not attached to the primary absorbent member to respond to increased or decreased menstrual flow.

Additionally, Hirayama is cited to produce the tampon device of Penksa by using its disclosed looper changeover device. Hirayama, does not disclose or teach the use of the looper changeover device for the production of tampons, and Penksa does not teach the use of stitching to attach a secondary absorbent member to the primary absorbent member of a tampon, but rather discloses an adjustable slidable plug or pad that is

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separate from the cord to respond to increased or decreased menstrual flow. Further, even in combination the Penksa and Hirayama references fail to disclose all the elements of claim 6 as noted above.

Accordingly, Applicants respectfully submit that claim 6 is non-obvious in view of Penksa and Hirayama.

Rejection Under 35 U.S.C. §103(a) Over U.S. 3,101,714 (Penksa) in view of U.S. 5,592,725 (Brinker)

Claim 9 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Penksa as applied to claims 1, 2, 4, 5, 7, 8 and 10, in view of Brinker.

With respect to claim 9 and obviousness: Please see the arguments presented above in regard to claim 6 and the cited Penksa reference, which are incorporated here in their entirety. Specifically, that there is no motivation or suggestion provided in Penksa that would motivate one of ordinary skill in the art to modify a continuous string and secondary absorbent member that are a single piece of composite yarn wherein the secondary absorbent member is joined to the primary absorbent member, when its disclosed inventive tampon device uses an adjustable slideable plug or pad to respond to increased or decreased menstrual flow.

Further, there is no teaching or suggestion to provide a catamenial tampon comprising a continuous string, which is woven according to a predetermined weaving manner after being provisionally twisted. Rather, Penksa teaches and suggests to one of ordinary skill in the art, a cord consisting of tufts of bristles, wherein the tufts of bristles are used to provide an irregular external surface along the length of the cord that will engage and hold a movable plug or pad. Therefore, even in combination the Penksa and Brinker references fail to disclose all the elements of claim 9.

Accordingly, Applicants respectfully submit that claim 9 is non-obvious in view of Penksa and Brinker.

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Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 U.S.C. §102 and 35 U.S.C. §103. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, and allowance of Claims 1-10 is respectfully requested.

Respectfully submitted,

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By 
Signature

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